

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Nicanor Perez Rodriguez,)	
)	
Petitioner,)	
)	
vs.)	Civil Action No.: 0:13-cv-03401-TLW
)	
Dennis Bush, <i>Warden</i> ,)	
)	
Respondent.)	
)	

ORDER

Petitioner, Nicanor Perez Rodriguez (“Petitioner”), filed this pro se petition for writ of habeas corpus seeking relief pursuant to 28 U.S.C. § 2254 on or about December 5, 2013. (Doc. #1). The Respondent filed a return and memorandum and a motion for summary judgment on January 31, 2014. (Docs. #7; 8). Petitioner filed a response opposing Respondent’s motion on April 14, 2014. (Doc. #19).

This matter now comes before the Court for review of the Report and Recommendation (“the Report”) issued on July 7, 2014 by United States Magistrate Judge Paige J. Gossett, to whom this case had previously been assigned. (Doc. #21). In the Report, the Magistrate Judge recommends that the District Court grant Respondent’s motion for summary judgment and dismiss the instant § 2254 petition. (Doc. #21). The Petitioner did not file objections to the Magistrate Judge’s Report. The deadline for Petitioner to file objections was July 24, 2014. (See Doc. #21).

This Court is charged with conducting a de novo review of any portion of the Magistrate Judge’s Report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636. In the absence of objections to the Report of the Magistrate Judge, this Court is not required to give any

explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

This Court has carefully reviewed the Magistrate Judge's Report and Recommendation and the record in this case. The Petitioner did not file objections to the Report. Accordingly, for the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that the Magistrate Judge's Report and Recommendation is **ACCEPTED**. (Doc. #21).

Further, to the extent the Petitioner did raise his claim on appeal in his petition for writ of certiorari to the South Carolina Supreme Court, such that the claim would not be procedurally barred from federal habeas review, this Court concludes that no relief would be appropriate on the merits. Petitioner and Respondents briefed the merits of the claim raised by Petitioner in the instant case. (See Docs. #8; 19). After careful consideration and review of the arguments of both parties, the Court additionally grants Respondents' motion for summary judgment on the merits of Petitioner's claim.

Accordingly, The Respondent's motion for summary judgment (Doc. #8) is hereby **GRANTED** and the Petition is denied. The above-captioned matter is hereby dismissed.

The Court has reviewed the petition in accordance with Rule 11 of the Rules Governing Section 2254 Proceedings. The Court concludes that it is not appropriate to issue a Certificate of Appealability as to the issues raised herein. Petitioner is advised that he may seek a Certificate from the Fourth Circuit Court of Appeals under Rule 22 of the Federal Rules of Appellate Procedure.

IT IS SO ORDERED.

s/ Terry L. Wooten
Terry L. Wooten
Chief United States District Judge

July 30, 2014
Columbia, South Carolina